



COMMONWEALTH of VIRGINIA
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April 22, 2004

W. Curtis Coleburn, III, Chief Operating Officer
Alcoholic Beverage Control Board
2901 Hermitage Road
Richmond, Virginia 23261

Re: Proposed Regulations for Wine and Beer Shipper's Licenses

Dear Mr. Coleburn:

We have reviewed the proposed regulations to be promulgated, pursuant to the second enactment clauses of Chapters 1029 and 1030 of the Acts of Assembly.

The Virginia Alcoholic Beverage Control Board is authorized to promulgate these regulations. Section 4.1-103(13) of the 1950 Code of Virginia, as amended, establishes that the Virginia Alcoholic Beverage Control Board has the power to promulgate regulations pursuant to the Administrative Process Act and Section 4.1-111. Section 4.1-111(A) provides that the Board may promulgate any regulations necessary to carry out the provisions of Title 4.1. Section 4.1-111(F) states that the power is to be broadly construed. Thus, the Board has the authority to promulgate regulations implementing the licensing of those shipping beer and/or wine directly to consumers.

We also find that the proposed regulations are consistent with the statutory grant of authority to promulgate them, are consistent with the statute, and are internally consistent. The proposed regulations do not appear to run afoul of state or federal statutes. We find the proposed regulations have no Constitutional defect distinct from the enabling statute.

Thank you for your time and kind assistance with this matter. Please do not hesitate to call me at (804) 225-3194 if you have any questions in this regard.

Sincerely,

Carla R. Collins,
Assistant Attorney General

